

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION**

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|----------------------------------|---|------------------------------|
| MARK R. FAREWELL, |) | |
| |) | |
| Petitioner, |) | Case No. 7:14CV00601 |
| |) | |
| v. |) | OPINION |
| |) | |
| COMMONWEALTH OF VIRGINIA, |) | By: James P. Jones |
| |) | United States District Judge |
| Respondent. |) | |

Mark R. Farewell, Pro Se Petitioner.

Petitioner Mark R. Farewell, a Virginia inmate proceeding pro se, has filed a pleading that he styled as a “NOTICE OF APPEAL” from an order issued on September 30, 2014, by the Circuit Court for the City of Charlottesville. The challenged order denied Farewell’s motion for a copy of the audio transcript of his criminal trial, CR11-343, which he believes necessary to authenticate the trial record. Farewell asks this court to order the circuit court to provide the requested audio transcript. I conclude that Farewell’s petition must be summarily dismissed.

Federal district courts do not have jurisdiction to review the judgments of state courts on appeal. *Plyler v. Moore*, 129 F.3d 728, 731 (4th Cir. 1997). Jurisdiction for appellate review of state court judgments lies exclusively with

superior state courts and, ultimately, with the United States Supreme Court. *Id.*;^{*} 28 U.S.C. § 1257. Because this court cannot address Farewell's submission as an appeal from the circuit court's order, and based on the nature of the relief sought, the court construed and docketed the submission as a Petition for a Writ of Mandamus.

As such, Farewell's petition must be denied, however. Mandamus relief is a drastic remedy and should be used only in extraordinary circumstances not present here. *Kerr v. United States Dist. Court*, 426 U.S. 394, 402 (1976). Mandamus may not be used as a substitute for appeal, *In re Lockheed Martin Corp.*, 503 F.3d 351, 353 (4th Cir. 2007), which Farewell has not yet attempted. Most importantly, this court does not have jurisdiction to grant mandamus relief against state officials, such as a state court judge. *Gurley v. Superior Court of Mecklenburg Cnty.*, 411 F.2d 586, 587 (4th Cir. 1969).

A separate Final Order will be entered herewith.

DATED: November 14, 2014

/s/ James P. Jones
United States District Judge

^{*} *But see Plyler*, 129 F.3d at 732 (recognizing lower federal courts' jurisdiction to review final judgments of state courts in federal habeas corpus proceedings under 28 U.S.C. § 2254). Farewell does not state any ground on which he believes his current confinement is in violation of the Constitution or indicate that he has exhausted available state court remedies, such as an appeal or habeas proceedings. Therefore, I will not construe his current submission as a § 2254 petition.